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QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT, IN PARTICULAR: TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

Written statement submitted by the Society for Threatened Peoples, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[19 March 1998]

GE.98-11284 (E)

1. Torture is outlawed by the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights (ICCPR), and the Convention against Torture and Other Cruel, inhuman or Degrading Treatment or Punishment. Every State is bound by the prohibition against torture as a matter of jus cogens, even if some States have not ratified the Convention against Torture or the ICCPR. Nevertheless, torture of persons in detention persists, most often persons arbitrarily detained for the peaceful exercise of the freedom of speech. Indeed, where a people is being denied its right of self-determination, torture remains a weapon of Governments to attempt to repress dissent.

2. Examples of such situations are the routine use of torture in Tibet by Chinese officials, and in East Timor by Indonesian officials. Even though China ratified the Convention against Torture, in 1990, the United Nations Committee against Torture noted that it had received credible allegations of the persistent practice of torture in Tibet. The Committee also made special note of China's failure to address allegations of torture in Tibet. In 1993 and again in 1996, the Committee against Torture asked China to set up a genuinely independent judiciary and to change its laws to ban all forms of torture (see CAT/C/SR.254). Despite this, China's Criminal Law (arts. 136, 143, 189) only specifically prohibits certain kinds of torture.

3. The use of torture is in fact common in all prisons and detention centres in Tibet, according to Human Rights Watch and the Tibet Information Network. Methods of torture include: inflicting shocks with electric batons; beating with iron bars; rifle butts and nail-studded sticks; branding with red-hot shovels; pouring boiling water over prisoners; hanging prisoners upside down or by the thumbs from the ceiling; shackling; kicking with boots; setting ferocious dogs onto prisoners; exposure to extreme temperatures; deprivation of sleep, food and water; prolonged strenuous exercise; long periods of solitary confinement; sexual violence; taunts and threats of torture and death.

4. Specific reports of torture in Tibet, mostly from former prisoners who have been released and have fled Tibet, continue unabated. In cases studied through 1995, there were 208 cases of serious physical maltreatment out of 1,276 cases studied or more than 16 per cent of all prisoners. In 1996 alone, there were more than 20 cases of torture documented through eye-witness accounts, not including cases of torture resulting in death. In fact, the torture appears to be becoming more severe, with an increasing number of prisoners who are unable to stand up fully on their own after release.

5. In 1996, the United Nations Special Rapporteur on torture made note of continuing reports of torture of Tibetan prisoners (E/CN.4/1996/35/Add.1, paras. 102-127). Notably, the cases included six specific cases of torture of children and numerous reports of maltreatment of juveniles (paragraphs 110-117). The Special Rapporteur also noted that it had still not received replies to earlier cases brought to China's attention in 1994 (paragraph 104), and had still not received a reply to his request to visit China (E/CN.4/1996/35, para. 47).

6. In 1997, the Special Rapporteur also informed China that he had continued to receive reports according to which the practice of torture was endemic to police stations and detention centres in Tibet (E/CN.4/1997/7, para. 59). At police stations, the form of torture and ill-treatment reported include kicking; beating; application of electric shocks by means of batons or small electrical generators; the use of self-tightening handcuffs; deprivation of food; exposure to alternating extremes of hot and cold temperatures; enforced standing in difficult positions; enforced standing in cold water; prolonged shackling of detainees spread-eagled against a wall; placing heated objects on the skin; and striking with iron rods on the joints or hands. Tibetans who had been forcibly returned to Tibet after seeking asylum in Nepal were alleged to be particularly vulnerable to torture. He has still not received a reply to his request to visit China.

7. An October 1997 report by Physicians for Human Rights also documents torture in Tibet based on interviews and medical examinations of Tibetan refugees. These highly credible reports corroborate the methods of torture being used, the frequency with which it is used by Chinese officials against Tibetans, its use against Tibetan children, and that torture continues to be used now.

8. In Indonesia, the Special Rapporteur reported in 1997 that he advised Indonesia that he had continued to receive reports indicating that torture or other ill-treatment of both criminal suspects and persons detained for political reasons was occurring on a widespread basis. Persons particularly vulnerable included dissidents in Irian, Jaya and East Timor, workers engaging in strikes or unauthorized union activities, student demonstrators and journalists. The methods of torture reported included beatings all over the body with fists; pieces of wood; iron bars; cables; bottles or rocks; burning with cigarettes; electric shocks; rape and other sexual abuse; suspension upside-down by the ankles; sleep and food deprivation; and death threats.

9. The Special Rapporteur concluded that the persistence and consistency of the allegations he had received justified continuing concern with the issue. He also specifically noted that his personal examination in Portugal of East Timorese alleging torture produced credible evidence that torture is taking place in East Timor.

10. The torture of people persists in States that are denying those people a right to self-determination is not surprising. The United Nations Security Council and the International Court of Justice have already recognized the right of the East Timorese to self-determination and the torture of East Timorese is a direct response of the Indonesian Government to demands by the East Timorese that Indonesia honored that right.

11. In the case of Tibet, two reports last year located the source of the persistent denial of human rights of the Tibetan people, including torture, in the denial of the right to self-determination. The first report, China's Tibet: The World's Largest Remaining Colony, concludes that Tibet is a de facto colony of China. The second, the International Commission of

Jurists' report on Tibet, concludes that Tibet is under alien subjugation and calls for a referendum by Tibetans to determine how they wish to be governed. Indeed, allowing the Tibetans to exercise their right of self-determination appears to be the only way to end the persistent human rights abuses in Tibet.

12. We therefore call upon the Commission to extend the mandate of the Special Rapporteur on Torture, to provide him whatever assistance he needs to carry out his work, and to encourage the High Commissioner and the Secretary-General to use their good offices to facilitate visits by the Special Rapporteur to China and Tibet. We also call upon the Commission to continue to facilitate the efforts of the working group on the optional protocol to the Convention against Torture, and to adopt a strong resolution regarding human rights in China and Tibet.